

MONTANA STATE HISTORIC PRESERVATION OFFICE

GUIDELINES FOR PREPARATION OF SECTION 106 DOCUMENTATION

FOR THE COLLOCATION OF WIRELESS ANTENNAS

The Montana State Historic Preservation Office (Montana SHPO) developed the following guidance document to assist Federal Communications Commission (FCC) permit applicants and their consultants with the procedures outlined in the *Nationwide Programmatic Agreement for the Collocation of Wireless Antennas* (FCC Collocation PA). Please refer to the *Montana State Historic Preservation Office: Guidelines for Preparation of Section 106 Documentation for New Cellular Tower and Antenna Structures*, for more information and guidance on proposed new tower and antenna construction. Additional general guidance can be found in *Consulting with the Montana SHPO: Guidelines and Procedures for Cultural Resource Review and Consultation under the National Historic Preservation Act and the Montana State Antiquities Act* (Montana SHPO Planning Bulletin No. 21) (see Additional Resources).

RESPONSIBILITY

The FCC Collocation PA records the terms and conditions agreed upon to fulfill the FCC's responsibilities under Section 106 of the National Historic Preservation Act (NHPA) as codified by 36 C.F.R. § 800. It is intended to streamline the Section 106 review of collocation proposals to encourage a reduction in the need for new towers and, thereby, reduce unnecessary potential adverse effects on historic properties.

Under 36 C.F.R. § 800, the Federal agency responsible for the funding, permitting, licensing or approval of a project, activity or program is obligated to fulfill the requirements of Section 106 of the NHPA prior to the execution of the project, activity or program. In the case of the collocation of wireless antennas, the FCC is ultimately accountable for ensuring that the applicant fulfills his/her responsibilities under Section 106. In other words, the FCC may use the services of applicants, consultants, or designees to prepare information, analyses and recommendations, but remains legally responsible for all required eligibility findings and effect determinations.

On a side note, the Montana SHPO encourages the coordination of the Section 106 process with any steps taken to meet the requirements of the National Environmental Policy Act (NEPA). It is important to mention, however, that the NEPA requirements are not intended to replace the Section 106 process.

COLLOCATION

In the FCC Collocation PA, "collocation" is defined as, "the mounting or installation of an antenna on an existing tower, building or structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes."

SUBSTANTIAL INCREASE IN SIZE OF CELLULAR TOWER

The FCC Collocation PA outlines the following instances as a substantial increase in the size of a pre-existing cellular tower:

- (1) The proposed antenna increases the existing height of the tower by more than ten percent (10%), or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty feet, whichever is greater (the proposed antenna may exceed the above-mentioned size restrictions if necessary to avoid interference with existing antenna);
- (2) The proposed antenna involves the installation of more than the standard number of new equipment cabinets for the technology involved (not to exceed four (4), or more than one (1) new equipment shelter);
- (3) The proposed antenna involves adding an appurtenance to the body of the tower that protrudes from the edge of the tower more than twenty feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater (the proposed antenna may exceed the above-mentioned size restrictions if necessary to shelter the antenna from inclement weather or connect the antenna to the tower via cable);
- (4) The proposed antenna involves excavation outside the current tower site (defined as the current boundaries of the leased or owned property surrounding the tower and any access or utility easements currently related to the site).

COLLOCATION: TOWERS CONSTRUCTED ON OR BEFORE MARCH 16, 2001

The proposed antenna may be mounted on an existing tower (constructed on or before March 16, 2001) without undergoing Section 106 review, unless:

- (1) The new antenna will result in a substantial increase in the size of the tower;
- (2) The FCC has determined the tower to have an unresolved adverse effect on one or more historic properties;
- (3) The tower is the subject of a pending environmental review or related proceeding before the FCC involving compliance with Section 106;
- (4) The collocation licensee or tower owner has received written or electronic notification that the FCC received a complaint from a member of the public, the Advisory Council on Historic Preservation (ACHP), or the Montana SHPO stating that the collocation has an adverse effect on one or more historic properties (complaints must be submitted in writing with substantial supporting evidence).

COLLOCATION: TOWERS CONSTRUCTED AFTER MARCH 16, 2001

The proposed antenna may be mounted on an existing tower (constructed after March 16, 2001) without undergoing Section 106 review, unless:

- (1) The Section 106 review process for the tower and any associated environmental reviews required by the FCC have not been completed;
- (2) The new antenna will result in a substantial increase in the size of the tower;
- (3) The FCC has determined the tower to have an unresolved adverse effect on one or more historic properties;
- (4) The collocation licensee or tower owner has received written or electronic notification that the FCC received a complaint from a member of the public, the ACHP, or the Montana SHPO stating that the collocation has an adverse effect on one or more historic properties (complaints must be submitted in writing with substantial supporting evidence).

COLLOCATION: BUILDINGS AND NON-TOWER STRUCTURES OUTSIDE OF HISTORIC DISTRICTS

The proposed antenna may be mounted on a building or non-tower structure without undergoing Section 106 review, unless:

- (1) The building or non-tower structure is over forty-five (45) years old;
- (2) The building or non-tower structure is inside or within 250 feet of the boundary of a historic district;
- (3) The antenna is visible from the ground level of a historic district;
- (4) The building or non-tower is a designated National Historic Landmark, or is listed in or eligible for listing in the National Register of Historic Places based on the review of the licensee, tower company, or applicant for an antenna license;
- (5) The collocation licensee or tower owner has received written or electronic notification that the FCC received a complaint from a member of the public, the ACHP, or the Montana SHPO stating that the collocation has an adverse effect on one or more historic properties (complaints must be submitted in writing with substantial supporting evidence).



For all proposed wireless antenna collocations that are not excluded from Section 106 review, the applicant or consultant should refer to the following steps for guidance:

AREA OF POTENTIAL EFFECT

Montana SHPO's Section 106 review of all cellular tower and antenna projects includes an evaluation of the project's Area of Potential Effect (APE). Under 36 C.F.R. § 800, the APE is defined as:

The geographic area or areas within which an undertaking may cause changes in the character or use of historic properties, if any such properties exist. The area of potential effect is influenced by the scale and nature of an undertaking and may be different for different kinds of effects caused by the undertaking.

In addition to effects that result from direct physical alteration or destruction, the APE must also account for indirect effects caused by the introduction of visual, audible or atmospheric elements.

The FCC PA requires the following minimum APEs for new towers:

- (a) Within one-half ($1/2$) of a mile from the tower site if the proposed tower is 200 feet or less in height;
- (b) Within three-fourths ($3/4$) of a mile from the tower site if the proposed tower is more than 200 feet, but no more than 400 feet in overall height; or
- (c) Within one-and-one-half ($1\frac{1}{2}$) miles from the proposed tower site if the proposed tower is more than 400 feet in overall height.

However, the Montana SHPO requests that for all proposed towers the applicant or consultant request at least a one (1) mile radius Class I File Search to determine the existence of significant historic properties adjacent to the required minimum APE.

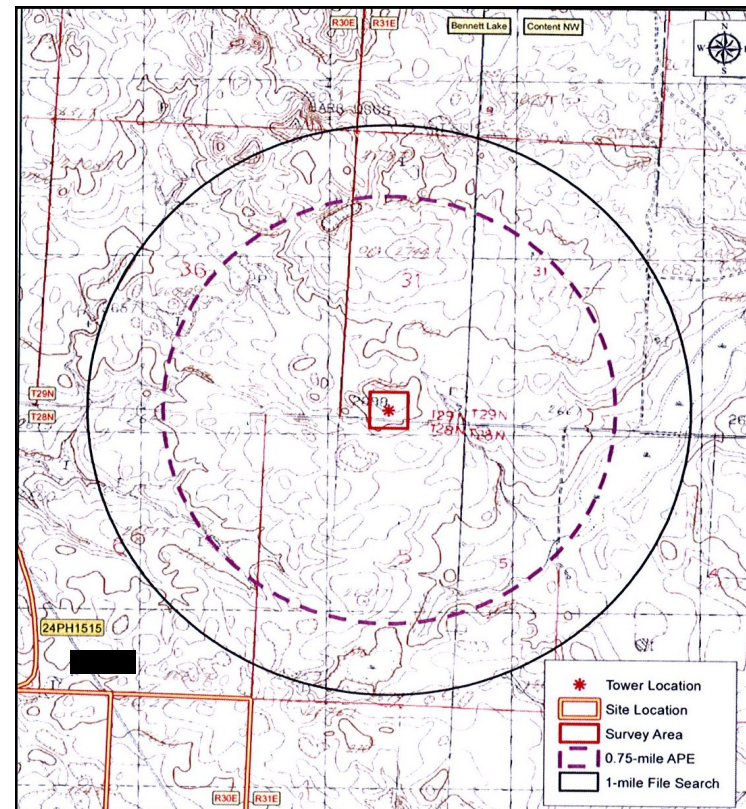
STEP 1: INITIATE FILE SEARCH

After determining and defining the appropriate direct and indirect APE, the applicant or consultant should next request a Class I File Search from the Montana SHPO for information regarding previously identified and recorded cultural resources (historic and archaeological sites) located within the APE.

It is extremely important for all file search requests to indicate the Township, Range, and Section for the entire APE.

The Class I File Search request should be submitted using the *Montana File Search Request Form*, which is available online at <http://mhs.mt.gov/shpo/forms.asp>. Information returned will include: site/property number, location (Township, Range, and Section), site type, period, ownership, and eligibility status.

There is a minimal fee associated with processing a Class I File Search. Search results are generally provided in one to three (1-3) calendar days. For more information on file search requests, please contact Damon Murdo, the MT SHPO Cultural Records Manager, at dmurdo@mt.gov or (406) 444-7767.



Map of project area with survey area, three-quarter mile visual area of potential effect and one mile files search area.

STEP 2: LOCAL/TRIBAL CONSULTATION

The Montana SHPO places an emphasis on local and tribal consultation. Therefore, in addition to documentation of Tribal Involvement (through the Tower Construction Notification System (TCNS)), the applicant or consultant should include all relevant information necessary to convey fulfillment of local consultation requirements.

It is important for the applicant or consultant to make a concerted effort to seek out local individuals or organizations with a demonstrated interest in the history of the local area. If the area has a Certified Local Government (CLG) representative (i.e. Local Historic Preservation Officer), then he/she would be the preferred contact. A list of current Montana CLGs is available online at <http://mhs.mt.gov/shpo/communitypres.asp>. If the area has no CLG, then the applicant or consultant should determine the closest local Historical Society or Museum using internet-based research or other means (see the Museum Association of Montana website at <http://montanamuseums.org/>). In addition to an individual or organization with an interest in local history, the Montana SHPO recommends the applicant or consultant contact a local government official or planning department.

Once the applicant or consultant identifies the appropriate local contacts, he/she should solicit comment on the proposed collocation in writing. If comment is not provided to the applicant or consultant, all contact information should be provided to the Montana SHPO. If the local representative has concerns about the collocation, then these concerns should be addressed and resolved prior to the submittal of the packet to the Montana SHPO.

STEP 3: CONSULTATION WITH MONTANA SHPO

The applicant or consultant should provide all documentation of local consultation efforts (including copies of letters) to Montana SHPO in the submission packet. If efforts to communicate with local interested parties are unsuccessful after a reasonable amount of time, the provided contact information fulfills the local consultation requirements.

If the local consulting parties express valid concerns that cannot be resolved, then the applicant or consultant should contact the FCC. If the FCC agrees that the applicant has made a reasonable and good faith effort, the FCC should clearly state its position in a letter addressed to the Montana SHPO. This letter should be submitted with the completed packet.

STEP 4: SUBMITTING THE FINISHED PACKET FOR REVIEW

After completing and documenting the Class I File Search and Local and Tribal consultation, the applicant or consultant should next submit the required packet to the Montana SHPO for review. Both a hard-copy and digital copy (CD) of the submittal packet should be mailed to the Montana SHPO. If necessary, the digital copy can also be submitted electronically through the State of Montana File Transfer Service (instructions are available at <https://transfer.mt.gov/>).

The submission packet must include the completed FCC Form 621, as well as a stand-alone Cultural Resource Inventory Report completed by the consultant (for further guidance on survey and report standards, refer to the Montana SHPO Planning Bulletin No. 21 (see Additional Resources)). The Cultural Resource Inventory Report should be accompanied by a Cultural Resource Annotated Bibliography System (C.R.A.B.S.) Form (available at <http://mhs.mt.gov/shpo/forms.asp>).

Upon receipt of the completed packet, the Montana SHPO will review the contents to ensure the applicant or consultant has made a reasonable and good faith effort to determine any potential adverse effects to historic properties located within the APE. **After reviewing the provided documentation, the Montana SHPO will respond with a formal response letter within thirty (30) calendar days.**

Hint: Please include all documentation of local and tribal consultation in the submission packet. The more information readily available to the Montana SHPO, the more efficient and effective the Section 106 review process.



???QUESTIONS???

We are happy to answer any questions regarding the Section 106 review and consultation process. Questions may be addressed to Kathryn Ore, the Montana SHPO Review and Compliance Officer, at (406) 444-0388 or kore@mt.gov. Thank you for your careful consideration of Montana's significant historic resources.

ADDITIONAL RESOURCES

The *Consulting with the Montana SHPO: Guidelines and Procedures For Cultural Resource Review and Consultation under the National Historic Preservation Act and the Montana State Antiquities Act* (Montana State Historic Preservation Office Planning Bulletin No. 21) is available online at <http://mhs.mt.gov/shpo/archaeology/consultingwith.asp>;

The *Nationwide Programmatic Agreement for the Collocation of Wireless Antenna* is available online at <http://wireless.fcc.gov/releases/da010691a.pdf>;

The *Federal Communications Commission Information and Instructions: FCC Wireless Telecommunications Bureau Collocation Submission Packet* is available with additional instruction online at www.fcc.gov/Forms/Form621/621.pdf;

The National Historic Preservation Act of 1966, As Amended in 2006 is available online at <http://www.achp.gov/docs/nhpa%202008-final.pdf>;

The Section 106 Federal Regulations (36 C.F.R. § 800 - Protection of Historic Properties) are available online at <http://www.achp.gov/regs-rev04.pdf>.

